THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19626 of 2005

12.9.2005

Between:

M/s.J.Thimmayya Metal Industries, Lakadaram village,

Patancheruvu Mandal, Medak District.

… Petitioner.

AND

The Assistant Director, Mines & Geology, Medak.

… Respondent.

ORDER:

The petitioner firm is engaged in the business of stone crushing. It has obtained a quarry lease in Survey No.738/1 of Lakdaram village in Patancheru Mandal of Medak District valid for a period of 10 years. According to the petitioner, it has obtained all necessary permissions and licenses from the competent authorities and carrying on the business without complaint from any quarter. The respondent herein issued a demand notice/letter dated 17.8.2005 calling upon the petitioner to pay a sum of Rs.19,103/- towards normal seigniorage fee and Rs.95,515/- towards five times penalty, within a period of seven days on the ground that when the Vigilance officials visited the petitioner crusher, the management failed to produce the documentary evidence of having paid the seigniorage fee for the stock of 877.3 M^3 available at the time of vigilance inspection. This demand notice is assailed in the writ petition.

Inter alia, it is contended by the learned Counsel for the petitioner, Ms.N.Shoba, the impugned demand by the Assistant Director of Mines and Geology is contrary to Rule 26(3) of A.P. Mines Mineral Concessions Rules, 1966 (the Rules, for brevity). She also vehemently contends that the impugned notice/demand was not preceded by any notice to enable the petitioner firm to produce necessary documentary proof of having paid the seigniorage fee in advance for the stock available in the factory premises. She further contends that the petitioner has paid the seigniorage fee in advance and obtained necessary transport permits as required under Rule 10 of the Rules.

As the controversy is in a narrow compass, the learned Government Pleader for Mines and Geology was directed to produce necessary file before this Court.

According to the learned Government Pleader, on 16.4.2005 when the officials from the Office of the Regional Director of Vigilance visited the petitioner's premises and served a notice to produce the necessary documents the petitioner failed to do so. This is, however, denied by the learned Counsel for the petitioner, who submits that on 13.4.2005 itself necessary documents were produced. This is a disputed question of fact and therefore, this Court is not inclined to go into merits of the case.

It is not denied by the learned Counsel for the petitioner that against any order passed by the Assistant Director of Mines and Geology, the respondent herein, an appeal lies to the Director of Mines and Geology under Rule 35 of the Rules. It would be in the interest of justice to leave the petitioner to avail the remedy. To enable the petitioner to do so and obtain appropriate interim orders, there shall be stay of recovery for a period of two weeks from today. It shall be open to the petitioner to approach the appellate authority under Rule 35 of the Rules and agitate the matter by filing an appeal.

The writ petition is, accordingly, disposed of. No costs.

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(**V.V.S.RAO,J**)

September 12, 2005.

NOTE:

Dispatch copy of the

order by 15.9.2005.

(B/o)

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